



# UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/849,044	05/04/2001	Dusan Pavenik	PA-5252-RFB 9073		
9896 7	590 07/17/2002				
COOK GROUP PATENT OFFICE P.O. BOX 2269 BLOOMINGTON, IN 47402			EXAMINER		
			STEWART, ALVIN J		
			ART UNIT	PAPER NUMBER	
			3738		
			DATE MAILED: 07/17/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>.</i>	_		_		$\mathcal{E}$			
Office Action Summary		Application No.	App	plicant(s)				
		09/849,044	PA	VCNIK ET AL.				
		Examiner	Art	Unit	_			
		Alvin J Stewart	373	38				
	- The MAILING DATE of this communication app	pears on the cover	sheet with the corre	spondence address				
THE N - Extension after the strict of the st	CRTENED STATUTORY PERIOD FOR REPL' MAILING DATE OF THIS COMMUNICATION. sions of time may be available under the provisions of 37 CFR 1.15 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period or te to reply within the set or extended period for reply will, by statute sply received by the Office later than three months after the mailing d patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, howev y within the statutory minir will apply and will expire S . cause the application to	er, may a reply be timely file num of thirty (30) days will b X (6) MONTHS from the m become ABANDONED (35	ed  De considered timely.  Alling date of this communication.  U.S.C. § 133).				
1)🛛	Responsive to communication(s) filed on	·						
2a) <u></u> □	This action is FINAL. 2b)⊠ Th	is action is non-fin	al.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.								
-	on of Claims	•						
•	Claim(s) <u>1-11</u> is/are pending in the application		tion					
	4a) Of the above claim(s) is/are withdra	WII ITOIII COIISIUETA	uon.					
•	Claim(s) is/are allowed.							
	Claim(s) <u>1-11</u> is/are rejected.							
•	Claim(s) is/are objected to.  Claim(s) are subject to restriction and/o	or election requiren	nent					
	on Papers	or election requires	ione.					
•	The specification is objected to by the Examine							
10) 🔲 ີ	The drawing(s) filed on is/are: a)☐ acce							
	Applicant may not request that any objection to th							
11) 🗌	The proposed drawing correction filed on			by the Examiner.				
_	If approved, corrected drawings are required in re		on.					
,—	The oath or declaration is objected to by the Ex	kamıner.						
_	under 35 U.S.C. §§ 119 and 120			(0				
	Acknowledgment is made of a claim for foreig	n priority under 35	U.S.C. § 119(a)-(d	) or (t).				
a)	☐ All b)☐ Some * c)☐ None of:							
	1. Certified copies of the priority document			VI-				
	2. Certified copies of the priority documents have been received in Application No							
* 5	<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>							
	Acknowledgment is made of a claim for domest			o a provisional application)	۱.			
a	)  The translation of the foreign language process  Acknowledgment is made of a claim for domes	ovisional application	on has been receive	ed.				
Attachmen								
2) Notic	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s)	4)		O-413) Paper No(s) nt Application (PTO-152)				

U.S. Patent and Trademark Office PTO-326 (Rev. 04-01) Application/Control Number: 09/849,044

Art Unit: 3738

## **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in-
- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Douglas US 6,090,128.

Douglas discloses a prosthetic device (30) comprising a plurality of stents (42) having eyelets (49) at each end of each stent. Each stent is covered by a graft (32) from end to end (along the inside surface of each stent) and folded at one end of the implant (see Fig. 4) along the outer surface of at least one stent. Additionally, each stent is connected to each stent and sutured to the graft by a biocompatible filament (see Fig. 2). Finally, Douglas discloses a graft made of collagen (see col. 2, lines 37-41).

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Page 3

Application/Control Number: 09/849,044

Art Unit: 3738

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas US Patent 6,090,128 in view of Cook et al US Patent 6,206,931.

Douglas discloses the invention substantially as claimed. however, Douglas does not disclose a graft made out of a submucosa tissue and a graft having a seam.

Cook et al teaches a graft having a seam and made out of a submucosa tissue for the purpose of increasing the biocompatibility of the implant.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of the Douglas reference with the graft of the Cook et al reference in order to increase the biocompatibility of the implant and reduce the probability of rejection by the body.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

AST July 11, 2002

CORRINE MCDERMOTT SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700